

CASES LOST

DRAWER 4 IMPORTANT LAW CASES

71. 2009.085, 04126



# Abraham Lincoln's Important Cases

## Cases Lincoln Lost

Excerpts from newspapers and other  
sources

From the files of the  
Lincoln Financial Foundation Collection

34

# .... ABE LOST MURDER CASE

\*\*\*\*  
*Emancipator, in His Law Circuit Days, Was Chosen by the Court to Defend First Killer in County Tried and Convicted*  
 \*\*\*\*

ABRAHAM LINCOLN is frequently mentioned in the earliest history of Champaign County, a county which this year celebrates the 100th anniversary of its birth. Lincoln was a frequent visitor in the county, and was among the first lawyers to practice in the circuit court.

Lincoln, with Asahel Gridley, defended William Weaver of Urbana, the first murderer in this county to be brought to trial and convicted. The sentence, however, was never fulfilled, for Weaver escaped.

But—read of the case as extracted from the "History of Champaign County, with illustrations," published in Brink, McDonough and Co., of Philadelphia, Pa., in 1878.

It says:

"The first murder in this county for which there was a trial and conviction was that known as the Weaver-Hiltibran murder. On the 10th day of October, 1844, William Weaver, of Urbana, a miserable, drunken, reckless wretch, shot David Hiltibran in the right side, with a rifle, without any apparent motive, except the fiendish recklessness that often attends men who have become besotted.

"He was arrested, and indicted at the May term of 1845, by a grand jury, of which William D. Somers, Esq., was foreman. Judge Samuel H. Treat being on the bench, I. A. McDougal, attorney for the State, T. R. Webber, clerk, and Wilson Lewis, sheriff.

"The following jurors tried the case: Joseph White, Harrison W. Dreiling, Alexander Walter, Henry Sadorus, W. H. Brobst, Charles W. Pitchan, David Hammer, John Hammer, John Mead, Winston Somers, Michael Finebaugh and Wells Edgerton.

\*\*\*\*  
 Abe Was Appointed

"ON THE opening of the trial Abraham Lincoln, who became before his death 'the fore-



ABRAHAM LINCOLN

A celebrated portrait . . .

This picture of the Great Emancipator was made in 1860, just before Lincoln entered the White House, following his triumphal and historic election victory. It was taken about 15 years after Lincoln served as counsel in this Champaign County murder trial, but is typical of facial expression before the dark days of the Civil War. During the strain of the 1860-5 period, Lincoln's countenance changed perceptibly and his face showed many deep lines—the imprints of sorrow and worry.

most man of all the world' and Asahel Gridley were appointed by the court to defend the prisoner, but his guilt was too well established during the trial to admit any

verdict but 'guilty,' and William Weaver was accordingly sentenced to be hung on Friday, June 27th, 1845.

"A few days later, however, before the execution, he made his escape from jail, fled to Wisconsin, and was never recaptured. He subsequently changed his name, reformed and lived a decent life. His near view of the gallows seems to have somewhat revolutionized him and put him on his good behavior."

The history, which is owned by Harry L. Clements, 602 East Springfield Avenue, having been handed down through several generations, also gives the following outline of the earliest crime of the county:

\*\*\*\*  
 "Crime—First Murder in County

"WHILE yet our first parents lived on earth was it saddened by the hand of violence, and the blood of Abel cried to God, from the ground, against the murderer, Cain. How often since that sorrowful day of the morning of the race has the hand of man been imbued in the blood of his brother.

"The names of the first murderer and his victim are alike unknown. A tradition, however, informs us that in early times, before the settlement of this country, a thief, who had stolen a horse in Indiana, fled with his booty westward. A band of "regulators" pursued and overtook him at a point known as "Tow Head," an isolated clump of trees on the ridge a mile north of the present village of Philo.

"Overcome by fatigue, he was sleeping beneath a tree, with the stolen horse tethered near. The avengers sent a rifleball crashing through his brain, and he passed without a struggle from the repose of sleep to the repose of death. His body was left to rot unburied, and the bleached skeleton was seen by early settlers who passed the lonely road."

### Lincoln's Lost Cases

**M**AYBE you missed this one among all that was printed about Abraham Lincoln this year. I did, but it's worth passing on, even at this date.

In 1853 Lincoln the lawyer had four cases before the Supreme Court of Illinois on appeal. He lost them all. Eight years later he was President. Ten years later he emancipated the slaves.

But the big point of the story is this, that in all four of his cases put together the money involved was less than \$500.

The man who dug up this information out of the law reports didn't say what I think needs to be said.

We have had a good many lawyers since Lincoln's time who wouldn't touch a case for less than \$500. But Lincoln got something out of his law practice besides money. And the nation was the beneficiary.

(5) 429

*Christian Albrecht*  
*May 6, 1895*

# FILES SHOW LINCOLN LOST LAST LAWSUIT

## Recently Found Records Show His Popularity With Corporations.

*By United Press*

SPRINGFIELD, Ill. — Recently discovered court records here have disclosed that Abraham Lincoln lost his last case as a practicing lawyer.

The records were uncovered in the clerk's room of the Federal building during an inventory of Federal records.

They show that Lincoln's last law case was filed on June 22, 1860. In that case Lincoln and his partner, Herndon, defended William Ellsworth in an ejectment proceeding.

### Damages of One Cent.

The suit, asking for the ejectment of Ellsworth from his premises was won by the plaintiff, the court holding that, in addition to paying damages of one cent, Ellsworth also relinquish the land involved.

A study of the records for the period between 1855 and 1860 showed that Lincoln had a total of 89 law cases on file.

The records are believed to be the oldest existing pertaining to Illinois in the Federal courts and in the United States.

### Originals Lost in Fire.

They are copies of originals which were sent to Chicago and later destroyed in the Chicago fire of 1871, according to court attaches.

The general court docket, which is part of the records uncovered, showed that Lincoln was especially popular, as a lawyer, with railroads and big companies. He also handled many cases for clients in reduced circumstances.



# LINCOLN LOST LAST LAWSUIT

Recently Discovered Records Give Particulars of Case Over Ejectment.

*See Star Sept 4 1937*

SPRINGFIELD, Ill. —(U.P.)— Recently discovered court records here have disclosed that Abraham Lincoln lost his last case as a practicing lawyer.

The records were uncovered in the clerk's room of the Federal building during an inventory of Federal records that was being taken recently.

They show that Lincoln's last law case was filed on June 22, 1860. In that case Lincoln and his partner, Herndon, defended William Ellsworth in an ejectment proceeding.

#### Awarded 1 Cent Damages.

The suit asking for the ejectment of Ellsworth from his premises was won by the plaintiff, the court holding that in addition to paying damages of 1 cent, Ellsworth also relinquished the land involved.

A study of the records for the period between 1855 and 1860 showed that Lincoln had a total of eighty-nine law cases on file during that period.

The records are believed to be the oldest existing pertaining to Illinois in the Federal courts and in the United States.

#### Copies of Originals.

They are copies of originals which were sent to Chicago and later destroyed in the Chicago fire of 1871, according to court attaches.

The general court docket, which is part of the records uncovered, showed that Lincoln was especially popular, as a lawyer, with railroads and big companies. He also handled many cases for clients in reduced circumstances.

Originally filed in the Circuit Court, the cases were transferred to the District Court in 1911, when it was established, and consequently are Federal property.

## LINCOLN ATTY. FOR COUNTY'S 1ST MURDERER

Champaign County's first murderer to stand trial was defended by Abraham Lincoln.

It was a losing cause for Lincoln and his associate defense attorney, Asahel Gridley, and their client was sentenced to the gallows.

But he was never hanged. Before the execution he escaped from jail and fled to Wisconsin. He is said to have reformed and led an exemplary life. At least, he was never recaptured.

There was little chance for the defense attorneys to aid their client.

The prosecutor claimed, and proved to the jury that on Oct. 10, 1844, William Weaver of Urbana, "a miserable, drunken, reckless wretch, shot David Hiltibrau in the right side with a rifle. There was no apparent motive except the fiendish recklessness that often attends men who have become besotted," Prosecutor I. A. McDougal said in his summation.

The jury of Joseph White, Harrison Drullinger, Alexander Walter, Henry Sadorus, W. H. Probst, Charles W. Pitchan, David Hammer, John Hammer, John Mead, Winston Somers, Michael Firebaugh, and Wells Edgerton was convinced.

It found him guilty and Judge Treat sentenced him to be hung on June 27, 1845.

There are no details available on the escape.



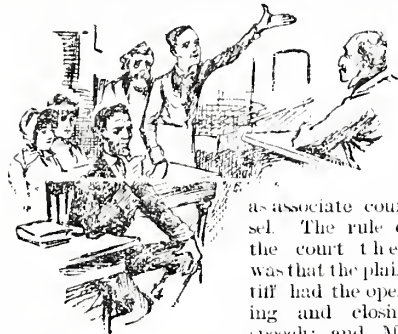
## A LAWYER'S MANEUVER.

### How Mr. Lincoln Was Squeezed Out of a Case.

Col. J. H. Wickizer, now of Chicago, but for many years manager of the United States mails for Utah, Montana and Idaho, was long quoted as the only lawyer of the Springfield circuit who outgeneraled Abraham Lincoln in the management of a case.

"It was," says Col. Wickizer, "decidedly the worst case I ever handled, and my client was rather the meanest specimen of alleged manhood in the circuit. He was the son of a man who had grown rich by the accident of getting to the central section of Illinois at an early day and locating a large tract of land; the population centered about him and his land became very valuable. The son grew up with the idea that his money could do anything, and so it was not necessary for him to make an effort—not even to be a gentleman.

"He paid his addresses to a young woman of high character and some beauty, who had to work for a living. She rejected him and he circulated slanderous reports about her. It was simply atrocious; there wasn't a word to be said for him; but when suit was brought against him her parents made the mistake of employing, because they wanted to help him, a young fellow who was set on practicing law, but had not a qualification for the business. Seeing, however, that they had made a mistake, they employed Lincoln



LINCOLN OUTWITTED.

as associate counsel. The rule of the court then was that the plaintiff had the opening and closing speech; and Mr. Lincoln, finding

that his colleague was determined to have half the time, of course gave the young fellow the first speech.

"It was plain as a pike staff that if Abe Lincoln addressed that jury of level headed old farmers for one hour, or even half an hour, before they went out, my client, the slanderer, was a ruined man. The picture Abe would have drawn of the 'poor and virtuous working girl' and the rich, coarse, vulgar libeler would have been simply terrific. That jury would have 'sized his pile' and left him barely enough to pay costs. But with all his astuteness Abe had overlooked the rule of pleading, that if the defense waived its right to reply, there could be no second speech, and I knew too well that nothing I could say would help my client.

"Well, the young lawyer opened for the plaintiffs. He maundered and mumbled, backed out and repeated himself, read long and dry decisions and botched his case generally till everybody was tired out and disgusted. The jury was yawning and all the court attendants were wishing for him to stop—they wanted to hear Abe. Well, when he sat down and everybody drew a breath of relief, I rose, and in the fewest possible words waived my right to reply and asked that the case be given to the jury.

"And it was done. There was nothing else for the court to do under the rule. Lincoln looked sour for awhile, but the humor of the thing soon brought him round. The jury gave the girl fair damages, but it was nothing to what people expected. And then, as a proper wind up, my mean spirited client kicked because I didn't 'make a speech and try to do somethin' for him.' He didn't know, hadn't sense enough to know, that this was a case where silence was golden—and the gold into his pocket."



**YESTERDAY'S ANSWER:  
LINCOLN'S LOGIC.**

The young man had agreed to pay the storekeeper, but later refuses. Because he is not 21, the law states that "he cannot be held to a contract." Despite this—can Lawyer Lincoln get a verdict for the storekeeper? **WAS THIS YOUR ANSWER?** Lincoln pointed out to the jury that the defendant was a young man of good character, with his future before him. He quoted Shakespeare: "Who steals my purse steals trash, but he who filches my good name leaves me poor indeed." In closing, Lincoln urged, "Do not allow this misguided young man to be blemished with a reputation for repudiating honest debts!" The jury held the young man responsible for the contract.

**Lincoln's Last Law Case.**

"Speaking of Lincoln's birthday," said Senator Palmer, "reminds me that the very last case Lincoln ever tried was one in which I, too, was engaged. It was in Springfield, in June, 1860, after Mr. Lincoln had received the presidential nomination. Old David Baker, who had been a senator in the early days, had sued the trustees of Shurtleff college, my alma mater, for expelling his grandson, a lad named Will Gilbert. Mr. Lincoln appeared for the prosecution. I was the college attorney. Mr. Lincoln came into court, and the judge said to him: 'Mr. Lincoln, I'll argue this case for you. You have too much on your hands already. You haven't any case.' And he explained the law and application.

" 'Well,' said Mr. Lincoln, with a smile, 'don't you want to hear a speech from me?'

" 'No,' said the judge, and the last case Mr. Lincoln tried he—well, he didn't try it at all."—Washington Post.

